RAJYA SABHA

Thursday, the 27th April, 1989|7th Vaisakha, 1911 (Saka)

The House met at eleven of the clock Mr. Chairman in the Chair.

ORAL ANSWERS TO QUESTIONS

Foreign Trade

*61. SHRI RAOOF VALIULLAH: Will the Minister of COMMERCE be pleased to state:

(a) whether Government have undertaken a study of the protectionist measures adopted by various countries in respect of foreign trade and their ill-effects on our country;

(b) whether the issue has been raised in international bodies like GATT and if so, what is the response thereto; and

(c) what are the promotional measures embarked upon by Government to explore new thrust areas of export and whether any success has been achieved in augmenting foreign trade?

THE MINISTER OF STATE IN THE MINISTRY OF COMMERCE (SHRI P. R. DAS MUNSHI): (a) to (c) A Statement is laid on the Table of the House.

Statement

Individual protectionist measures having an adverse effect on our export trade are under continuous examination by the Government. The more important of these measures are quotas on textiles exports in USA, EEC, Canada, Nordio countries and Austria under the Multi-fibre Arrangement and anti-dumping and countervailing duties in USA on engineering products.

The issue has been raised from time to time in international bodies such as GATT and UNCTAD. In these bodies, whenever the matter has been taken up, there has been a widely shared feeling against the protectionist trends in world trade. More specifically efforts are being made by us to dismantle the restrictive trade regime on textiles and improve the position regarding countervailing and antidumping duties.

The Government has initiated a series of measures for promotion of exports in all sectors including the thrust areas. These are designed to facilitate increased capacity for export production, to upgrade technology to make the export sector more competitive through improved access to capital goods and raw materials at or near international prices and by providing fiscal and monetary incentives for exports. The impact of the export promotion measures initiated has already been reflected in the higher growth of exports. According to the provisional data, India's exports amounted to Rs. 17876 Crores during April-January, 1988-89 as compared to Rs. 13939 crores during April-February 1987-88, thereby registering an increase of 28.2 per cent.

SHRI RAOOF VALIULLAH: Mr. Chairman, Sir, I am sure the Government are aware of the new section known as 'Super 301' in the U.S. Trade Act, 1988, which is an amendment to the earlier Trade Act. The U.S. trade representative has been asked to draw up a list of those countries where unfair trade practices are being carried on. Also, a list of those countries which do not adequately protect the U.S. intellectual property rights such as patents, copyrights and trade marks. The list will be finalised by May 30 and it would end in retaliation against Indian exports to the U.S. The U.S. Ambassador, Mr. John Hubbard, has gone on record to say-I quote: "In the U.S. view, some of India's practices fit the Trade Act definition of 'unfair'." The indigenous industry is also agitated over this issue. I would like to know what is the Government's response to this new section and what is the Government's stand to defend our industry and exports.

THE MINISTER OF COMMERCE (SHRI DINESH SINGH): The Government's feeling is that this U.S. Act is unfair. It is not in keeping with the multilateral system of trade in the world and it violates certain sections of the GATT. But the U.S. is a powerful economy and, there-

fore, it attempts to force its views on others. We will have to live in such an unequal world.

SHRI A. G. KULKARNI: Is he speaking as the External Affairs Minister or as the Commerce Minister?

SHRI GURUDAS DAS GUPTA: Is the realisation in the House only or is it reflected in the policy of the Government also?

SHRI RAOOF VALIULLAH: Sir, all this while, particularly, for the last two years, India was leading the Third World countries in opposing the inclusion of intellectual property rights in the international bodies—the hon. Minister referred to—such as the GATT. But all of a sudden, India modified its stand at the Geneva talks. Reports say that there is a growing resentment among the Third World countries against India for letting them down. Our late Prime Minister, Shrimati Indira Gandhi, personally took interest to defend the Indian patent law in the early seventies. I would like to know from the Government whether they are in a position to give us a firm assurance that the Indian patent law would be protected and that India would not agree to anything which is detrimental to the interests of the indigenous industry.

SHRI DINESH SINGH: Mr. Chairman, Sir, I think it is a wrong impression being deliberately conveyed by some interested people that India agreed to the inclusion of the trade, related intellectual property at Geneva. Discussion on trade related intellectual property had been agreed to at Punta del Este at the very beginning of the Uruguay round. Our stand had been that only the trade related aspect should be discussed and that position has been maintained by India. India had not aspired for any leadership as the hon. Member mentioned, but India has always worked with the developing countries and that in Geneva too we worked with the developing countries. One of the countries which had been very active partner of ours was Brazil and Brazil's views in Geneva were not different than our views. So, it is not correct to say that we had let down the developing countries or that we had not watched our interest in Geneva. These are negotiations. Negotiations are taking place. We have an option to negotiate or not to negotiate. We have an option to strengthen the multilateral system or weaken it. Our effort has been to strengthen a multilateral system in which the developing countries, if we are able to work together, will be able to achieve greater security than in a bilateral system to which the hon. Member had mentioned earlier. 301 is a bilateral action. It would not be permissible if general GATT rules become applicable. So, it is our hope that we would be able, at the end of the negotiations in Uruguay round, to bring about a balance.

So far as the Patent Law is concerned, hon. Member knows very well that I had the privilege of bringing it before Parliament and getting it passed and there is no intention of changing the Patent Law.

SHRI DIPEN GHOSH: Mr. Chairma, Sir, my supplementary relates to part (c) of the question regarding export promotional measures embarked upon by the Government and the results thereof. In the reply it has been mentioned *inter alia* that the impact of export promotion measures initiated had already been reflected in the higher growth of exports. It is true that there has been a rise in the exports to the tune of 28.2 per cent as reported in the reply but at the same time it is also true that import is also rising faster than the rate of grawth in exports. That apart, Sir, it is also a fact that the industrial houses which are mostly enjoying the export promotional benefits are importing but not exporting to the extent they are required to do. Even our Minister has gone on record to say like that very recently. Figures have also been quoted in this House to prove that the big houses are not exporting to the tune to which they are importing. But only recently we saw a statement having been made by one of the representatives of the big industrial houses, who is also privy to the powers that be, that they do not like to compets with the cobblers and tailors of our country. Unfortunately, our country belongs mostly to the cobblers and tailors, not the

big industrial houses. Sir, my specific question is, although the big industrial houses are allowed to import, they are the beneficiaries of the export promotional scheme, mostly the increased export is being made by small and cottage sectors. Gems, jewellery, handloom, handicraft...

MR. CHAIRMAN: What is your question?

SHRI DIPEN GHOSH: I want to know, what steps is the Government taking against those beneficiaries of the various export promotional concessions or schemes who are not exporting to the tune they are receiving the benefits for the same?

SHRI DINESH SINGH: Sir, the hon. Member is quite right that the export effort that should be made by the large houses is not being made up till now and the growth fatcor has been mostly with the medium and small sectors. We have been emphasising on the large industries that they must get into a conscious export drive at least to be able to meet their own import bill and leave some surplus for the country to be used in other ways. I think this realisation is coming to them. Only recently there was an annual meeting of the Federation of Chambers of Commerce and Industry in which the Chairman has promised a large boost to our exports. We have asked individual large houses to let us know the programme of export promotion that they would be introducing. We are awaiting to see how they are proposing to build up an export drive. Sir, we must not forget that in the past there has not been an equal amount of emphasis and many of these industries were created to meet domestic demand. There were more import substitutions rather than the export thing. But they have the capability to alter this situation and that is what we are emphasising. Sir, it is also unfortunate that some of them have not been able to keep pace with the changes in the country and accept the nature of socialist society that we are trying to build and have some reservations about tailors and cobblers. I wish they could perform better than them. Then they might be in a position to say something.

SHRI A. G. KULKARNI: Sir, the Commerce Minister has replied to my friend who raised this question and he has tried to convey an impression that the Government is for the interests of this country and Government is going to protect our interests by protecting our laws, whatever those patent laws etc. are there. I take it that this is more of a diplomatic statement by my friend, Mr. Dinesh Singh. I want to know from him whether it is a fact that a Cabinet Sub-Committee under the Cabinet Secretariat has been appointed by Government of India and an inter-ministerial committee of the Government set up under the Union Cabinet Secretaiat is studying the feasibility of major changes in the Indian Patents Act which, as you said, you yourself moved in 1970 or so.

SHRI DINESH SINGH: You were also there.

SHRI A. G. KULKARNI: I was also there. And I am here all along. But for some time you went to that House.

Anyhow, this impression has been carried—Sir, it is not a cock and bull story which we are quoting here—by the recent visit of your Commerce Secretary to Geneva that the Government is in the process of rethinking. This process goes on for a long time, but here and even in Uruguay talks, it was discussed whether it should be included in the agenda. And is it also a fact that India has accepted that this should be discussed?

So these are the two points I want to make in this connection. And my last point is, our interest lies in patenting the processes and not the products. Will the Government categorically say that the product will be protected, not the process?

SHRI DINESH SINGH: The hon. Member is a very senior Member. I have had his association for a very long time. He says that in between I went to the other House. It was in between that I came to this House. But so far as the Pa-

tent Bill is concerned, now the Patent Act, I can assure the House that there is no intention on the part of the Government to make any alteration in the Patent Act.

Regarding some Committee to which he referred from a newspaper report, I am not aware of any committee which is looking into our patent law. It may be in the papers. I do not deny it, but I am not aware of it.

So far as the questions of the Uruguay Round is concerned, I have explained to the hon. Member who put the question first, that the discussion on trade related intellectual property formed part of the agenda at the very beginning at Punta del Este. . . it is not an item that has been included later. We have answered a detailed question here today, an unstarred question, which, if the hon. Member reads, will give him all the back ground information.

SHRI KRISHNA KUMAR BIRLA: Sir, the answer given by the hon. Minister is liable to be slightly misunderstood. I would like, Sir, to put some facts before I come to the question. The USA is our biggest trading partner. Our customs duties in respect of many items are high. There is no denying as far as that is concerned. It has however got to be realised as to why the customs duties are high. It is because we are required to raise finances for development purposes. Sir, there is no discrimination whatsoever against U.S. goods are concerned. It is understood, however, that some people in the States are taking the view that high duties imposed on import, affect their easy sale in the Indian market. Another charge is that many of our pharmaceutical companies are manufacturing drugs, medicines which might have been patented in the United States. Sir, it would require great tact, diplomacy and persuasiveness on the part of the Government to see that the U.S. Government does not retaliate against India. If they do so, it will be unfair on their part.

I would also, side by side, mention that the businessmen in the United States play a very important role. So far as the business community in this country is concerned, they most willingly offer close cooperation with the Government of India and to carry out whatever directions that the Government may give them.

My question therefore, is: what steps is the Government proposing to take to convince the U.S. Government that there is no discrimination of any type against the USA nor is there any violation by India of the US omnibus Trade Act and that for a developing country like India, the Government of USA should not stretch the facts to draw unfair conclusions.

SHRI DINESH SINGH: Sir, I am grateful to the hon. Member for explaining the position in detail. I was trying to save the time of the House and was not going into the details. But it has been useful that the hon. Member has spelt it out. It is quite right that there is no discrimination against the U.S.

So far as the question of convincing the United States is concerned, we can only make an attempt. Their team is coming here shortly, and we shall follow the advice that the hon. Member has given in putting across our point of view. I appreciate also what he said that the businessmen in the US, play an important part in the formulation of the policy of the government. In our country too, they play an important part, perhaps not in the formulation of the policy, but in its implementation. Therefore, I hope that the hon. Member and his associates will also impress on the U.S. businesmen that there is no discrimination and that they bear in mind the development dimensions of our country.

SHRI MURLIDHAR CHANDRAKANT BHANDARE: Sir, I do not know whether the hon. Minister has looked at the papers, all the newspapers which report the Geneva perfromance of the 8th April diversely as climb down, capituating, succumbing to perssure, bending on patent issue. Surrender, not to mention, and I don't subscribe to that view the extreme allegation of surrender.

SHRI A. G. KULKARNI: Are you describing reaction of your own newspapers-

SHRI MURLIDHAR CHANDRAKANT BHANDRARE: Yes, this is the reaction of our own newspapers. So, I want him to understand the gravity of my question. That is why I am only reproducing what has appeared in very national newspaper. There is a great deal of consternation and concern, particularly among the third world nations because we have led them and somebody called it a 'black Saturday'. Somebody said that we will not be able to recover. But, in a way there will be other occasions to raise this very very important issue. I just want to ask the following question: Whether as a result of the April Agreement, which is a turn-about to our previous stand in the Uruguay round of talks, the fields of negotiations has shifted to substantive question of adequate standards and principles relating to intellectual property rights, enforcement of such rights and the question of disputes settlement within the ambit of the judicial framework of GATT; and as a consequence of that whether it will now enable the USA to apply Section 301 of the US Trade Act by raising as the GATT dispute the adequacy of patents and other rights provided by the developing countries and legitimise its striking power under Section 301 by withholding multilaterally agreed concessions in regard to trade in goods?

SHRI DINESH SINGH: It is most unfortunate that a different view other than the Government's view is taken by some of the newspapers on some of the very important issues in the country and also in some of the things that we do abroad.

SHRI MURLIDHAR CHANDRAKANT BHANDARE: All the newspapers without exception.

SHRI DINESH SINGH: And what pains me more is that an hon. Member, a colleague of ours, is also influenced by it to say that all the newspapers have this view. I will not wish to enter into a debate on what 'all the newspapers' constitute. There have been very favourable editorials on what has been done in Geneva. Now that he has mentioned all the newspapers, if he so desires I shall be glad to send him copies of those editorials which are not in conformity with the one particular newspaper from which he was reading. As I mentioned, we have at some length explained it in reply to one of the unstarred questions coming today, but since it has been raised and since it is an important. . . .

SHRI MURLIDHAR CHANDRAKANT BHANDARE: We don't get answers till 12 O' Clock. That is the difficulty. I asked for an answer from your Minister of State. We don't get an answer till 12 O' Clock. In fact, we should have half-an-hour discussion on this issue. It is a very very important issue.

SHRI DINESH SINGH: I am not merely referring to this answer, but I am saying that a detailed answer has been provided which, when the hon. Member reads, will probably change his impression from what has been conveyed from the newspaper report that he has read.

Now, I should like to make it quite clear and I have said this earlier also today, but I am sorry some of our friends have not quite accepted that—there is no change in our policy on patents, trade marks and copyrights or any other intellectual property related issues. What has happened in Geneva is that there had been included in the Uruguay round a discussion on trade-related aspects of the intellectual property. Now, a pressure had come from some of the countries that unless we discuss the principles and standards, we would not be able to fully discuss the trade-related aspects of intellectual property. Our position had been that this matter was before the World Intellectual Property Organisation (WIPO) and before the UNCTAD and therefore there was no particular need to discuss it under the Uruguay round while trade related intellectual property had been included at the Punta del Este as part of the GATT. Now, it is an important issue that we have to bear in mind. An agreement had been made at Punta del Este to discuss step under the Uru-

guay round. So, it is not right to say that we have now agreed to discuss. We had agreed to discuss two or three years back when Punta del Este agreement negotiations began. If the hon. Member so desires I will send him a copy of the Punta del Este negotiations.

SHRI MURLIDHAR CHANDRAKANT BHANDARE: My question is not what you are saying. My question is whether the field of negotiation has shifted to a substantive position. That is the question.

SHRI DINESH SINGH: Sir, there has been a desire on the part of the majority of countries that there should be a discussion which will then be related to sea as to what is the trade related and whether we could then decide. It does not commit us to anything. A discussion in the Uruguay round does not commit us to acceptance of any position. Now, we can say that we would keep out of discussion. Would it be desirable for us to keep out of the discusion not be to be able to participate, not be able to mould public opinion or the opinion of other nations, merely to keep us out and say no, we will not do it? That we can do at the end of it also. But the real point is that it is quite wrong to say that we were not together with the developing countries. We were together with all the developing countries except three of them and our stand was appreciated by the developing countries which participated in the Uruguay round.

SHRI N. E. BALARAM: Sir, I was listening to the answer given by the hon. Minister about the question of certain issues. But the answer given by the Minister was not clear to me and that is why I am asking the question. After the Geneva conference, the Government of India was taking a very clear position and rightly so. According to that they are not prepared to discuss this patent issue in the draft papers except at the level of World Intellectual Property Organisation. This was the position the Government was conceding so far. Now, suddenly the Government of India has conceded to the position of discussing certain aspects concerned with the patents issue in GATT's favour. Is it not a change? What is the meaning of this change? I would like to have a clarification on this. I could not understand when the Minister was explaining about so many things. In the past we took part in the discussion only at the World Intellectual Property Organisation level. We refused to discuss it at the GATT level. But now we are prepared to discuss it at the GATT level. Is it not a change? What is the intelligence behind it? I have got my own impression about that. That is what I am trying to know from the Minister

SHRI DINESH SINGH: No Sir. As I have been saying again and again and I do not know how I can impress any more than what I have said, that we had agreed to discuss trade related intellectual property under the GATT at Punta del Este. Again and again, I would like to emphasise, it is within GATT that we had agreed....

SHRI N. E. BALARAM: Do you remember what they wanted?

SHRI DINESH SINGH: I remember everything. I have been part of them for nearly a year. Now, what I am trying to say, Sir, is that discussion of trade related aspects is the issue that we have agreed to. From the time of Punta del Este we have been saying again and again that the basic standards and principles are before WIPO and should be discussed. Even in Geneva this position has been maintained by us. We have said that WIPO is the organisation where it should be discussed. Now, what they have said is that standards and principles which are trade related which affect trade should be discussed in this. Now, I can understand quite clearly what the hon. Member is saying that there has been a shift in our position. What I am trying to say is that there has not been a shift in our position but there has been—if the hon. Member so likes to put it—a shift in the negotiating stand. I want to tell him that it is not a shift in our position.